IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

TUESDAY, THE 24TH JULY 2007 / 2ND SRAVANA 1929

WP(C).No. 21794 of 2007(T)

LAR.109/1994 of ADDL.SUB COURT,KOLLAM
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PETITIONER:

SHEELA, D/O.KAMALAKSHI, VELLIKTTU VEEDU, KILIKOLLURCHERY, KILIKOLLUR VILLAGE, KOLLAM NOW RESIDING AT KIZHEKKEVILA VEEDU, THAZHUTHALACHERRY, THRIKKOVILVATTOM VILLAGE, KOLLAM DISTRICT.

BY ADV. SRI.B.MOHANLAL

RESPONDENTS:
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1. THE DISTRICT COLLECTOR, COLLECTORATE, KOLLAM.

2. THE SPECIAL TAHSILDAR (LAND ACQUISITION), NATIONAL HIGHWAY, KOLLAM.

BY GOVERNMENT PLEADER SMT. R. BINDU.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 24/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N. KRISHNAN, J.

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W.P.C. NO. 21794 OF 2007

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Dated this the 24th day of July, 2007.

J U D G M E N T

This writ petition is filed seeking to set aside Ext.P2 order and direct reconsideration of Exts.P3 to P5 applications. The writ petitioner did not appear before the Land Acquisition Court and therefore the Court passed an award confirming the award passed by the Tahsildar.

2. The grievance of the petitioner is that at the time of the proceedings she had fallen out from her husband and she is living in her parental house. There was no proper service of notice and that resulted in her non appearance and the Court disposed of the matter without application of mind. It is true that the award passed by the Subordinate Judge's Court is not one for dismissal for default but is only one confirming the award passed by the Tahsildar. When a person's property is taken under the Land Acquisition proceedings, he or she is entitled to legitimate compensation and even in the absence of the party the Court is expected to

pass a considered award applying its mind on all points. But, this is a case where the learned Subordinate Judge has not applied his mind to the facts of the case at all and simply passed an award on account of the absence of the claimant. It is not a proper award as envisaged under the provisions of the Land Acquisition Act. Therefore, it suffers from serious infirmity. Therefore, I am inclined to set aside the award passed by the Land Acquisition Court and direct the Court to consider the matter afresh after notice to all concerned and permitting the parties to adduce evidence in support of their respective contentions. The factum of entitlement of interest during the period of dismissal till restoration can also be considered by the Land Acquisition Court. I make it clear that this shall not be cited as a precedence in other cases for getting relief of this nature. The Court is also directed to dispose of the matter within a period of three months from the date of receipt of a copy of this judgment.

The writ petition is disposed of accordingly.

M.N. KRISHNAN, JUDGE.

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